

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application	)	<u>PATENT APPLICATION</u>
	)	
Inventors:	Chen, et al.	)
	)	
Application No.:	Unknown	)
	)	
Filed:	Herewith	)
	)	
Title:	BEHAVIOR BASED PROGRAMMING OF NON-VOLATILE MEMORY	)
		<u>Customer No. 28554</u>
	)	

DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am the original, first and sole inventor (if one name is listed below), first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

BEHAVIOR BASED PROGRAMMING OF NON-VOLATILE MEMORY

the specification of which (check applicable ones):

- X \_\_\_\_\_ is filed herewith;
- \_\_\_\_\_ was filed with the above-identified "Filed" date and "Application No."
- \_\_\_\_\_ was amended on (or amended through) \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose information which is material to the examination of the application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

(1) Full name of sole  
or first inventor: Jian Chen

(1) Residence: 5476 Castle Glen Avenue  
San Jose, California 95129

(1) Post Office Address: same

(1) Citizenship: United States

(1) Inventor's signature: Jian

(1) Date: 10/3/2003

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(2) Full name of second  
joint inventor: Jeffrey W. Lutze

(2) Residence: 1906 Adele Place  
San Jose, California 95125

(2) Post Office Address: same

(2) Citizenship: United States

(2) Inventor's signature: Jeffrey Lutze

(2) Date: 10/8/2003

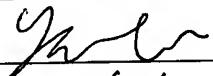
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(3) Full name of third joint inventor: Yan Li

(3) Residence: 695 KeVenaire Drive  
Milpitas, California 95035

(3) Post Office Address: same

(3) Citizenship: United States

(3) Inventor's signature: 

(3) Date: 10/3/03

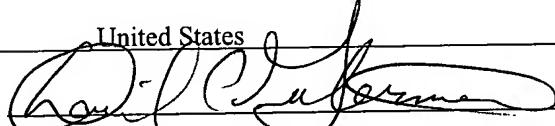
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(4) Full name of fourth joint inventor: Daniel C. Guterman

(4) Residence: 305 Jacaranda Drive  
Fremont, California 94539

(4) Post Office Address: same

(4) Citizenship: United States

(4) Inventor's signature: 

(4) Date: October 3, 2003

\*\*\*\*\*

(5) Full name of fifth joint inventor: Tomoharu Tanaka

(5) Residence: 2-13-21-105, Ookubo, Kounan-ku  
Yokohama, Japan

(5) Post Office Address: same

(5) Citizenship: Japan

(5) Inventor's signature: Tomoharu Tanaka

(5) Date: Oct. 13, 2003

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## Title 37, Code of Federal Regulations, §1.56

### **SECTION 1.56. DUTY TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98.\* However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

- (i) Opposing an argument of unpatentability relied on by the Office; or
- (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

\* §§1.97(b)-(d) and 1.98 relate to the timing and manner in which information is to be submitted to the Office.

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**POWER OF ATTORNEY**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I hereby appoint DeNIRO, Kirk J. (Reg. No. 35,854), MAGEN, Burt (Reg. No. 37,175), MARCUS, Brian I. (Reg. No. 34,511), and VIERRA, Larry E. (Reg. No. 33,809), as our attorneys or agents to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

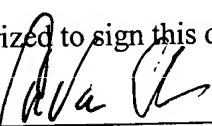
Please direct all telephone calls and correspondence for the above-identified application to:

Burt Magen, Esq.  
Vierra Magen Marcus Harmon & DeNiro LLP  
685 Market Street, Suite 540  
San Francisco, California 94105  
Telephone: 415.369.9660, Facsimile: 415.369.9665

SanDisk Corporation is the assignee of the entire right, title and interest in the above-identified patent application. I, the undersigned, declare that I have reviewed copies of the documentary evidence establishing chain of title to the patent application identified above from the inventors to the assignee which:

is filed for recordation herewith; or  
 was recorded at Reel \_\_\_, Frame \_\_\_; or  
 has been sent for recordation under separate cover, a copy attached herewith.

The undersigned is authorized to sign this document on behalf of the assignee.

Signature: 

Date: October 16, 2003

Name: Charles Van Orden

Title: Vice President & General Counsel